

**FRANKLIN COUNTY AREA PLAN COMMISSION**  
**MEMORANDUM & MINUTES**  
**COMMISSIONERS/ COUNCIL PUBLIC MEETING ROOM 203**  
**JANUARY 8, 2020 @ 7:00 PM**

THOSE PRESENT; Robert Braun, Ruthie Mannix, Ed Derickson, Denny Brown, Mary Rodenhuis, Glenn Bailey and Chris Ernstes. Also present Tamm Davis, and Cindy C. Orschell.

Robert Braun opened the meeting with the Pledge of Allegiance.

**ELECTION OF OFFICERS FOR THE YEAR 2020** – MOTION – Ruthie Mannix moved to nominate Chris Ernstes as President, Mary Rodenhuis 2<sup>nd</sup>. AIF. MC. MOTION – Glenn Bailey moved to nominate Ruthie Mannix as Vice-President, Mary Rodenhuis 2<sup>nd</sup>. AIC. MC.

**LETTERS OF APPOINTMENT FOR THE YEAR 2020** – Letters of appointment were received from Missy Orschell as Secretary and Cindy C. Orschell as Executive Director. MOTION – Ed Derickson moved to appoint Missy Orschell as Secretary, Chris Ernstes 2<sup>nd</sup>. AIF. MC. MOTION - Glenn Bailey moved to appoint Cindy C. Orschell as Executive Director, Chris Ernstes 2<sup>nd</sup>. AIF. MC.

**COMMISSION ATTORNEY** - Tammy Davis did not have her contract with her at this meeting, but if the board wishes to have her as legal council for 2020, she would be happy to serve the board.

**APC APPOINTMENT TO BZA** - Tammy asked about the APC's appointment to BZA. Chris Ernstes – 4 years. Cindy Orschell – will research the appointment.

**MINUTES OF NOVEMBER 13, 2019** – MOTION - Ed Derickson moved to approve the minutes, Robert Braun 2<sup>nd</sup>. AIF. MC.

**MINUTES OF DECEMBER 11, 2019** – MOTION- Mary Rodenhuis moved to approve the minutes, Robert Braun 2<sup>nd</sup>. AIF. MC.

**CU-3-19-21280 FOR BRACKNEY, INC.** to revise the original conditional use in Section 25 of Highland Township located at 2145 State Road 1 containing 86.73 acres, parcel # 24-16-26-200-001.000-008. The property is zoned Open Industrial. This application was continued from the December meeting. Brackney, Inc. has requested a continuance.

Robert Braun – will there be an opportunity to discuss and feels it should be discussed with it being a public hearing? Tammy Davis – they have requested a continuance, therefore we will not be able to discuss the matter. John Bear- representing Brackney Inc. requests an extension for Brackney Inc.

Mary Rodenhuis – if moved to continue this meeting, is it feasible to be prepared for the February meeting? John Bear – feels they will be ready for the February meeting. Mary Rodenhuis - January 21 is the deadline for the February meeting.

Ed Derickson – the letter dated January 2 between Brackney and neighbors feels the document mentions a “binding stipulation”. He doesn't feel the board can make a binding stipulation. Chris Ernstes – that cannot be discussed. Ed Derickson – are all parties going to sign this because for it to be binding it would need to be signed by all parties. John Bear – this would be more appropriate at the next month's meeting.

MOTION - Ruthie Mannix moves to accept the continuance to the February meeting, Glenn Bailey 2<sup>nd</sup>. AIF. MC.

**RZ-3-19-21393 for Brylake Properties, LLC**, aka, Mark Lanning to change the present zoning designation from Residential-3 to Local Business on Pt. Lot 23 Block 10 in Oldenburg Corporation located at 22134 Main Street, parcel # 24-13-04-378-005.000-016. Mark Lanning - owned the building for 15 years, his wife ran a CPA business for 15 years, a special exception was granted years ago, the 2<sup>nd</sup> floor space was rented out to office space. There is a business, Dylan Walmsley that is interested in it for office space, a small retail shop. The special exception was just for the business, no retail. The Town Council of Oldenburg has been contacted. Dylan Walmsley is present tonight, if any questions for him.

Mary Rodenhuis – questioned parking? Mark Lanning - 3 out front, 3 on side and 3 on the parking pad.  
Ruthie Mannix – questions about any truck or any equipment from the business be parked there? Dylan Walmsley – generally no, just his work truck.

Cindy Orschell – let the record show the legal notification to newspaper and notifications from adjoining property owners are in order.

MOTION – Robert Braun moved to accept the change going from Residential-3 to Local business. Cindy Orschell – forward a recommendation to the Town of Oldenburg. MOTION - Robert Braun to restate his motion to the Town of Oldenburg, Ruthie Mannix 2<sup>nd</sup>. AIF. MC.

**RECOVERY CENTER PROPOSAL** – David Mannix, and Daryl Kramer submitted the following proposed changes to the board.

**80.06.04: Specific Conditional Uses**

Boarding House, Lodging House, Tourist Home, and Bed and Breakfast of 3 or Fewer Rental Units:

- a. Approval Process: Class 1, Allowed Without Permit - (I) Class 3, Town of Brookville, Cedar Grove, Mt. Carmel and Oldenburg, Ordinance # 1-2012, passed on 6/26/2012
- b. Zones Permitted: A1, A2, RE, R1, R2, R3, LB, GB, PB, and I-1

Boarding House, Lodging House, Tourist Home, and Bed and Breakfast of 4 to 8 Rental Units:

- a. Approval Process: ~~Class 2, Permitted by Executive Decision~~ Class 3, Permitted by Hearing  
(I) Class 3, Town of Brookville, Cedar Grove, Mt. Carmel and Oldenburg, (Ordinance # 1-2012, passed on 6/26/2012).
- a. Zones Permitted: A1, A2, RE, ~~R1~~, R2, R3, LB, GB, PB, and I-1

Boarding House, Lodging House, Tourist Home, and Bed and Breakfast of 9 or Greater Rental Units:

- b. Approval Process: Class 3, Permitted by Hearing
- c. Zones Permitted: A1, A2, RE, ~~R1, R2~~, R3, LB, GB, PB, and I-1  
(Ordinance # 2016-14, passed on 5/23/2016)

Clinic (~~Medical~~) Medical and/or Dental:

- a. Approval Process: Class 3, Permitted by Hearing
- b. Zones Permitted: A-1, A-2, RE, R-3, LB, PB, GB & I-1
- c. Minimum Lot Area: 15,000 square feet

d. Screening: Level 1

Health Care Facility, ~~Residential (Nursing Home):~~

- a. Approval Process: Class 3, Permitted by Hearing
- b. Zones Permitted: A-1, A-2, RE, R-3,-LB, GB, PB, ~~I-1, I-2~~; Delete; I-1, and I-2 as zones permitted, (Ordinance # 2018-15, passed on 9/4/18)
- c. Minimum Lot Area: 12,000 square feet, and not less than 1000 sq. ft. per occupant
- d. Landscape Screening: Level 1
- e. Maximum Height: 45 feet
- f. Adequacy of Sewers: Approval required

SECTION 80.13 C DEFINITIONS

Clinic, Medical and/or Dental ..... A building used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons, and those who need medical and surgical attention, but which building does not provide room and board or regular hospital care and services.

Health Care Facility.....A licensed facility or institution, public or private, principally engaged in providing services for diagnosis and/or treatment of human disease, pain, injury, deformity or physical condition. Such facility may be a hospital, clinic or center, skilled nursing facility, extended care facility, or laboratory or central services facility serving one or more such institutions.

Hospital.....An institution licensed by the State Board of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are an integral part of the facility, provided such institution is operated by, or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and the like.

**80.06.06 – Addiction Treatment Services**

Definitions of words and phrases used in this section are found in Section 80.13 F.

**A. Purpose and Intent**

It is the purpose and intent of this Article to regulate Addiction Treatment Services to promote the health, safety and general welfare of the citizens of the County and to ensure their presence will not be injurious to other properties in the immediate vicinity for the purposes already permitted.

The provisions of this ordinance have neither the purpose nor effect to deny access by the medical community to their intended market.

**B. Regulations for Addiction Treatment Services**

**1. Addiction Treatment Facility**

- a) Approval Process: Class 3, Permitted by Hearing; subject to the specific conditions imposed and approved by the Board of Zoning Appeals b) Zones Permitted: LB, GB, PB, I-1
- c) Any proposed program shall not be located on a parcel of real estate that is within five hundred (500) linear feet of the boundaries of a parcel of real estate having situated on it a public or private school, child day-care center or child-serving agency.
- d) Any proposed program shall not be located on a parcel of real estate that is within one hundred (100) linear feet of the boundaries of any properties zoned for residential purposes.
- e) Any proposed program shall provide a valid, current certificate issued by the State of Indiana reflecting the entity's compliance with statutory and regulatory requirements for operating as a provider of services.

## **2. Opioid Treatment Facility**

- a) Approval Process: Class 3, Permitted by Hearing; subject to the specific conditions imposed and approved by the Board of Zoning Appeals b) Zones Permitted: LB, GB, PB, I-1
- c) Any proposed program shall not be located on a parcel of real estate that is within five hundred (500) linear feet of the boundaries of a parcel of real estate having situated on it a public or private school, child day-care center or child-serving agency.
- d) Any proposed program shall not be located on the boundaries of a parcel of real estate that is within one hundred (100) linear feet of any properties zoned for residential purposes.
- e) Any proposed program shall provide a valid, current certificate issued by the State of Indiana reflecting the entity's compliance with statutory and regulatory requirements for operating as a provider of services.

## **3. Recovery Residence**

Recovery residences without on-site supervision by medical staff are regulated as boarding houses and are allowed under the same conditions and in the same zones.

Recovery residences with on-site supervision by medical staff providing clinically managed service shall be subject to the following:

- a) Approval Process: Class 3, Permitted by Hearing; subject to the specific conditions imposed and approved by the Board of Zoning Appeals b) Zones Permitted: LB, GB, PB, I-1
- c) Any proposed program shall not be located on the boundaries of a parcel of real estate that is within five hundred (500) linear feet of the boundaries of a parcel of real estate having situated on it a public or private school, child daycare center or child-serving agency.
- d) Any proposed program shall not be located on a parcel of real estate that is within one hundred (100) linear feet of any properties zoned for residential purposes.
- e) Any proposed program shall provide a certificate issued by the National Alliance for Recovery Residences (NARR), or the most current governing body, reflecting the entity's compliance with standards for operating as a provider of services.

### **80.13. F Addiction Treatment Services Definitions**

For purposes of this code, certain terms and definitions apply to section 80.06.06, Addiction Treatment Services as follows:

**Addiction Treatment Facility:** A facility certified by the Indiana Department of Mental Health and Addiction (DMHA) as an adjunct to an opioid treatment facility and shall not administer opioid treatment medication. It offers a broad range of planned and continuing care, treatment, rehabilitation, and recovery, including, but not limited to, counseling, psychological, medical, and social services,

designed to influence the behavior of an individual who abuses alcohol or drugs based on an individual treatment plan.

**Opioid Treatment Facility:** means the building and the location at which an Opioid Treatment Program provides the following services: (1) The administering of an opioid treatment medication. (2) A comprehensive range of medical and recovery services to alleviate the adverse medical, psychological, or physical effects incident to opioid addiction.

**Recovery Residence:** An abstinence-based living environment for individuals that promote recovery from: (1) alcohol and (2) other drug abuse and related issues. There are various terms to describe recovery housing including sober housing, supportive services, wraparound services, halfway housing, faith-based housing and transitional housing.

**Medical Staff:** Examples include but are not limited to Physicians, Physician Assistants, Nurse Practitioners, Clinical Nurse Specialists, Certified Registered Nurse Anesthetists, and Certified Nurse Midwives.

**NARR:** The National Alliance for Recovery Residences, whose mission is to support persons in recovery from addiction by improving their access to quality recovery residences through standards, support services, placement, education, research and advocacy

Mary Rodenhuis - page 2, "clinic, medical and/or dental clinic" second clinic is redundant? David Mannix – tried to copy and paste. Mary Rodenhuis - page 3, what is the point of breaking apart addiction treatment facility and the opioid treatment facility since they have the exact same 5 bullet-points could we combine those titles? David Mannix – that was done purposely, because it a different type of facilities. Mary Rodenhuis – recovery residences, concern if there is another body that came in or was changed, could we make it all inclusive? David Mannix – the State of Indiana is working on this.

Denny Brown – how deep are we going to get into this now. Chirs Ernstes– this is a presentation on several different proposal, and asked while going through the options. Wants a specific proposal that the board can act on and present to the commissioners. Daryl Kramer– this would be our proposal, and move onto a hearing as soon as possible.

Denny Brown – If they want to do what is proposed, this will be a long discussion. Tammy Davis – you have a couple options, if you have questions or concerns then you can put something together for next meeting for review and you need something for them to bring back. Denny Brown – this is something he would like to do.

Mary Rodenhuis – would like to keep this going and its open for discussion. Denny Brown- Sees somethings that needs to be changed, and one being the 500 linear feet from a school. Expressed concern in the boarding houses of less that 3. Ruthie Mannix - what kind of number would you put on that? Denny Brown – doesn't know, it would depend on the area. Mary Rodenhuis – these are minimums and we can add more conditions.

Daryl Kramer – there has to be some place in the county where it can happen. David Mannix – in speaking with Lawrenceburg and Ripley County they decided on the same permitted zoning designations.

No public comment.

Chris Ernstes – do you have a specific proposal you would like to make at this time. David Mannix – yes with the noted clerical changes as mentioned, he feels this is what they would like to recommend to put for a public hearing, Addiction Treatment Services Code 80.06.06 and the addition to Definitions to 80.13.

Chris Ernstes – Cindy Orschell – to repeat back. Cindy Orschell - what has been proposed is what he is wanting advertised, with Mary Rodenhuis's recommended revisions. David Mannix- yes, modification to 80.06.04 specific conditional uses, new 80.06.06 addiction treatment services, and addition to 80.13 f, addiction treatment services definitions; and add 80.13 c.

Chris Ernstes– a motion from the board? Tammy Davis – if board wants to make a motion to advertise for this with any revisions, the board can do this. Or if you want to work towards a different document and whatever you advertise it has to as close as possible. Cindy Orschell– advertisement needs to be the larger print notice.

Mary Rodenhuis – does any board member feel this is inadequate or is this sufficient? Ed Derickson – 80.06.04 specific conditional use, the boarding house of 3 units, questions septic system on additions? Mary Rodenhuis – to put on an addition a permit would be required, the septic would be checked at that time.

Ed Derickson- should be a class 3 for 3 units or less. David Mannix– didn't want to be a burden to the board because of the 3 or less units, and wouldn't be a controversial request as a larger facility. There is an administrative burden to do this.

Denny Brown – if its 3 units that's 6 people and your allowing that without a permit? Mary Rodenhuis – for a legal bed and breakfast, when serving food you have to have a commercial kitchen. Ruthie Mannix – we are getting distracted by the bed and breakfast, we want in the code and to get something we can use and when someone wants to start a recovery center. Chris Ernstes– that was proposed so you could distinguish between facilities and how that was going to touch on other parts of the code. So, to achieve what we wanted to, it doesn't mean we can't go back and change it.

Terry Duffy- believes the bed and breakfast as a Class 1 was in the previous code and in the existing code for a while. Chris Ernstes – we can still make changes.

MOTION – Mary moved to advertise for a public hearing on Sections 80.06.04 as presented, 80.13 C, 80.13 F, and 80.06.06 for advertisement for changes for the February meeting, Robert Braun 2<sup>nd</sup>. AIF. MC.

**NOTICE OF AGRICULTURE ACTIVITY** – Cindy Orschell - The Commissioners have requested that the last sentence of Section 80.09.02, B. Agriculture and Rural Area Deed Disclosure; Appendix A: "In addition, I agree to record this document at the Franklin County, Indiana Recorder's Office with a fee of \$25.00". It's not serving its purpose, it's not attached to the deed. We can still have the document notarized and be a permanent part of their record. In speaking with Tammy Davis it's an acknowledgement.

Robert Braun – where is the document recorded. Cindy Orschell – originally it was to be in the deed, and in speaking with the Recorder, she said the Indiana Code doesn't require it, and she has certain items required to record a document. Robert Braun – understands the recorder's requirement, can't we require more items. Tammy Davis – doesn't know if the county has pushed to make her do that, and that's been her position. Even though she wasn't willing to required them to be on the deed. thought they were being cross referenced with the parcel numbers. She doesn't know that's happened either. It's basically

just being recording and when someone searches property, they will not find it. It's defeating the whole purpose. She looked into it and could not find anything requiring the Recorder to have it in the deeds.

Robert Braun– can we include this is the advertised for the other one? Tammy Davis– yes. Mary Rodenhuis– I don't think we need to get rid of the whole thing, its still beneficial just so that you are aware of the right to farm law. Tammy Davis– you can still have it taken care of in the office. Robert Braun- so the Director can still do it, just eliminate it to be recorded? Ed Derickson – would this be a separate file? Cindy – no this will be a permanent part of their file, and the document will still be notarized.

MOTION - Mary Rodenhuis- moved to advertise for the February meeting to strike "In addition, I agree to record this document at the Franklin County, Indiana Recorder's Office for a fee of \$25.00" out of 80.09.02, Robert Braun 2<sup>nd</sup>. AIF. MC.

**REPORTS–** Cindy Orschell - submitted the building activity report.

VIOLATION REPORT -

Derryl Cregar 9165 Cummins Road, Metamora, IN 47030, parcel # 24-08-02-200-003.000-003 – Tammy Davis - has been consulting with the County Attorney on vacating the road, there was some discrepancy on whether his access was off that road. We can pursue the violation or County Attorney suggested to meet and work together to solve the issue. However you want to proceed is fine, and does not know if there has been any more clean up or not.

MOTION - Robert Braun – last month we discussed and we were supposed to have an answer, and feels we should pursue, and moves to pursue. Mary Rodenhuis – has Tammy Davis sent a letter, Tammy Davis I have spoke to them but no I have not sent a letter. Mary Rodenhuis – maybe to send a letter to see if the Commissioners could work with them.

MOTION - Robert Braun– this has been since March and decides to keep his motion. Time to file action. Ed Derickson 2<sup>nd</sup>. In favor – Ed Derickson, Robert Braun, Glenn Bailey, and Denny Brown. Opposed – Chris Ernstes, Mary Rodenhuis and Ruthie Mannix.

WILBUR CREGAR, 23019 US 52, Laurel, IN 47024, parcel # 24-02-29-400-003.000-010 – Cindy Orschell - Building Inspector was able to do a site visit, and photos were taken house has been removed, but some debris remains, some metal, possibly for recycling, and some concrete.

Could send another letter making them aware that even though the house has been removed, they still need to do clean-up. Mary Rodenhuis- moves to have Tammy Davis send a letter, Ruthie Mannix 2<sup>nd</sup>. AIF. MC.

JEFFERY SHERWOOD, 13165 Buena Vista Road, Laurel, In 47024, parcel # 24-01-15-128-005.000-013 – Cindy Orschell - Tammy Davis to send a letter last month, he contacted me on the 17<sup>th</sup> and I told him there was still a violation. He said the property was almost paid off. Tammy Davis– did send a letter. Mary Rodenhuis - wait until February to see if there is any action.

DANIEL & JAMES DAVIS, 21729 State Road 244, Rushville, IN 46173, parcel # 24-01-10-398-014.000-013 on lots 24-39, 48 in Andersonville – Tammy Davis has filed suit, and does not have (green card) notification back yet, but feels she will be the next meeting. Actions ongoing.

SMITH, RANDY & BRIDGET, 6014 St. Peter's Road, West Harrison, IN 47060, parcel # 24-17-31-200-008.000-021 – Tammy Davis – letter has been sent with no response. Ruthie Mannix- when

was letter sent. Tammy Davis – around Christmas, may have contact by next meeting. Robert Braun– December of 2018 and they have not responded to letter. Tammy Davis -no, we usually give them 30 days.

MOTION - Robert Braun – moves if they haven't responded by next week (within the 30 days) file suit, Ed Derickson 2<sup>nd</sup>. AIF. MC.

NEELY, ASHLEY D. BURCH LIFE ESTATE OF VIRGINIA NEELEY, 6175 Shop Road, Brookville, IN 47012, parcel # 24-07-21-200-011.000-005 – Tammy Davis – contacted myself and Cindy Orschell, her husband was sick and she felt he may pass away. He is moving in a nursing home now. She is aware of the removing the items temporarily out of the setback and she will be working on that. Her plan is to remove it permanently. She is aware is going to get the items out of the setback. Robert Braun- give her another month.

TOWN OF BROOKVILLE, 1020 Franklin Avenue, Brookville, IN 47012, parcel # 24-10-20-400-005.000-004. Cindy Orschell - has been in contact with Tim Ripperger, Town Administrator, and contacted the building and will be getting plans. It's still a work in progress.

HARDING, DONALD, 1105 Eastern Avenue, Connersville, IN 47331, parcel # 24-01-34-300-005.000-013 located on Stipps Hill Road. Tammy Davis – this case is where the violator has been incarcerated, and they thought he may be released. She looked at the DOC website and looks like he is still incarcerated, but she could file a contempt and doesn't know if anyone is handling his affairs. Ruthie Mannix – anyone living in the house? Cindy Orschell – no house. Robert Braun – current violation. Cindy Orschell – several items located close to the property lines on the sides, cars, car parts, a camper. There are complaints from the neighbors.

Denny Brown – someone paying taxes. Cindy Orschell – no, it was up for tax sale. A neighbor emailed and the property was purchased back.

Denny Brown– why can't we put a lien on the property and clean it up ourselves. Tammy Davis– if we file a contempt, and ask for the judgement to clean it up and attached it to the property. According to all records he is still incarcerated. Someone may have showed up on his behalf and removed it from tax sale. MOTION – Denny Brown moves to file contempt since this has been going on since September 2014, Robert Braun 2<sup>nd</sup>. AIF. MC.

PETERS, STEVEN T. & PAULA GODSEY, 26095 US 52, Laurel, IN 47024, parcel # 24-01-14-200-009.000-013 – Cindy Orschell – has had contact with them, and they have been in the office inquiring about permits. A small building outbuilding and added porches to the structure.

MEYERS, GREGORY, 2165 Drewersburg Road, West Harrison, IN 47060, parcel # 24-17-26-200-007.000-021. Cindy Orschell – no response and asked board if she should send another letter.

MOTION - Mary Rodenhuis - moved to send another letter, Ruthie Mannix 2<sup>nd</sup>. AIF.MC.

**MEETING IN NOVEMBER** – Cindy Orschell – the date in November is Veteran's Day and the government building will be closed.



MOTION - Mary Rodenhuis - moved to change meeting date to November 18th, Glenn Bailey 2<sup>nd</sup>. AIF. MC.  
Denny Brown - does this need to publish that. Cindy Orschell -yes, the agenda is advertised on a monthly basis.

**ADJOURNMENT** – MOTION - Mary Rodenhuis moved to adjourn the meeting, Glenn Bailey 2<sup>nd</sup>. Meeting adjourned at 8:39 PM